COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

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In the matter of:)

Sprint Communications Company L.P.)

)

Petition for Arbitration Pursuant to Section 252(b) of) D.T.E. 00-54

the Telecommunications Act of 1996 to Establish a New)

Interconnection Agreement with Bell Atlantic-)

Massachusetts)

_____)

REPLY BRIEF OF VERIZON MASSACHUSETTS

Verizon New England Inc. d/b/a Verizon Massachusetts ("Verizon MA") hereby files this reply to the Main Brief of Sprint Communications Company L.P. ("Sprint"). Verizon MA's Initial Brief anticipated most of the arguments made by Sprint. In several instances, however, Sprint has obfuscated the issues by misstating the facts or Verizon MA's position. This reply is necessary to set the record straight.

ARBITRATION ISSUE NO. 6

Rates and Charges

As Verizon MA explained in its Initial Brief, the rates Sprint proposes to charge Verizon MA - for services that Verizon MA must obtain from Sprint - are

unreasonable. Sprint's Main Brief makes several arguments in an effort to rebut this fact, but none has merit.

Sprint first argues, for example, that the Department should simply presume that Sprint's rates are reasonable. Sprint claims that "CLEC rates are presumed competitive in Massachusetts because CLECs, unlike Verizon, have no market power." Sprint Brief at 7. That premise is false. The services at issue here are services which Verizon MA must obtain to interconnect with Sprint and which Verizon MA can only obtain from Sprint.(1)

Sprint also claims that Verizon MA's objections to Sprint's rates are "based upon what Verizon defines as unreasonable." Sprint Brief at 8. That is also incorrect. In fact, Sprint is the party that wants to be the sole judge of the reasonableness of its rates.(2) Verizon MA, by contrast, has proposed that the reasonableness of Sprint's rates be judged by comparison to those the Department has determined to be reasonable (for Verizon MA), or to Sprint's costs. Verizon MA is not attempting to impose its definition of reasonableness on Sprint.

Finally, Sprint claims that Verizon MA can always challenge Sprint's rates, citing a Department order for the proposition that "a carrier could at any time petition the Department to modify current rates based upon a new or revised cost study." Sprint Brief at 11. The problem with this argument is that Sprint has steadfastly refused to provide any cost study to justify its rates, or even to agree that its costs are relevant. It is disingenuous for Sprint to make this argument when it has flatly rejected Verizon MA's

alternative offer that Sprint could charge higher rates if they are based on Sprint's costs, and insisted that its rates should be presumed to be reasonable.(3)

Verizon MA's Initial Brief demonstrated the unreasonableness of Sprint's rates by comparing them to the rates the Department allows Verizon MA to charge for comparable services. Verizon Initial Brief at 3. Sprint disputes the accuracy of that comparison, but its arguments are disingenuous at best. For example, Verizon MA showed that Sprint's proposed monthly recurring rate for a DS-3 is $450.00, while Verizon MA's comparable rate is only $47.83. Id. In its brief, Sprint claims that its correct rate is $109.00, citing the following language from the agreement: "The monthly DS3 Central Office Connection fee will be $109 for carriers interconnection (sic) for the sole purpose of exchanging local exchange carrier traffic." Sprint Brief at 10 (emphasis added). This is misleading because Verizon MA will not be interconnecting "for the sole purpose of exchanging local traffic." Verizon MA will also be sending ISP-bound traffic to Sprint, and, as the Department has ruled, ISP-bound traffic is not local traffic. As a result, the $109 rate would not apply. In fact, in making the argument, Sprint appears to be trying some sleight of

hand. If Verizon MA were to accept the $109 rate, Sprint would presumably argue that Verizon MA thereby conceded that the traffic over the facilities, including ISP-bound traffic, was local exchange traffic. Verizon MA most assuredly does not accept that proposition, and the Department has rejected it as well. See Verizon Initial Brief at 9-10.

Sprint also claims that Verizon MA was wrong to compare Sprint's $1500 Collocation Real Estate fee to Verizon MA's comparable rate of $49.93, because the agreement provides that the fee does not apply "in the case of multijurisdictional collocation." Sprint Brief at 10. Sprint asserts that "[a]ll of Verizon's interconnection facilities with Sprint will be integrated, and therefore, per the contract collocation real estate fees will be free." Id. This argument is also disingenuous. Sprint has not yet designated its interconnection points, so it is not clear that Verizon MA will be able to integrate all of its interconnection facilities. If Verizon MA cannot, it would, contrary to Sprint's representations, be required to pay the unreasonable $1500 fee. On the other hand, if Sprint is correct, and all of Verizon MA's interconnection facilities will be integrated, then there is no basis even to include the unreasonable $1500 fee in the agreement because it will never apply. It is curious, at best, for Sprint to insist that a rate be included in the agreement and then, when the rate is challenged, refuse to justify it, claiming that it will never apply.(4)

In short, Sprint has demonstrated that if left to its own devices, it will charge Verizon MA unreasonable rates for services that Verizon MA must obtain from Sprint. The Department should therefore adopt Verizon MA's proposal, and hold that Sprint cannot charge more than Verizon MA's comparable rates unless it can justify higher rates based on its costs.

ARBITRATION ISSUE NO. 9

Vertical Features

The discussion of this issue in Sprint's Main Brief is of little help to the Department, and is largely irrelevant, because it primarily addresses arguments that Verizon MA has never made. The issue here is whether Sprint is entitled to the wholesale discount when it resells a specific vertical feature - Call Forward Busy Line/Don't Answer - on a stand-alone basis. The answer is no. Under Section 251(c)(4)(A) of the Act, Verizon MA is only required "to offer for resale at wholesale rates" those services it provides "at retail." 47 U.S.C. §251(c)(4)(A) (emphasis added). Because Verizon MA does not offer Call Forward Busy Line/Don't Answer to retail customers on a stand-alone basis, Sprint is not entitled to wholesale rates when it resells Call Forward

Busy Line/Don't Answer on a stand-alone basis.

Instead of addressing the question of whether Verizon MA provides Call Forward Busy Line/Don't Answer on a stand-alone basis at retail, Sprint simply claims that the question is "not disputed here." Sprint Brief at 17. Sprint is wrong. To overcome Sprint's attempts at obfuscation, however, perhaps it is necessary to distinguish between what is not in dispute and what is. There is no dispute that if Sprint resells basic service to a customer, it is also entitled to the wholesale discount when it resells any vertical feature to that customer. The dispute only arises when Sprint just wants to resell Call Forward Busy Line/Don't Answer to a Verizon MA customer.(5) Verizon MA Response at 12. Sprint may do that, just as Enhanced Service Providers ("ESPs") do, but Sprint is not entitled to the wholesale discount in that situation, just as ESPs are not entitled to the wholesale discount.

The rest of Sprint's Brief is devoted to rebutting arguments that Verizon MA has not made. As such, it provides no help to the Department in resolving the issue. Verizon MA never argued, for example, that it only has a duty to permit resale of retail services "under the same terms and conditions as are provided at retail." Sprint Brief at 16.(6) As explained above, Verizon MA has simply argued that it is only required to offer "for resale at wholesale rates" those services it offers "at retail."

Similarly, Verizon MA has never argued that "local dial tone and vertical features are a single, integrated offering." Sprint Brief at 18. Verizon MA has simply explained that its retail customers cannot order or obtain Call Forward Busy Line/Don't Answer on a stand-alone basis, i.e., without the dial tone line. Nor has Verizon MA argued that "local dial tone [has] to be provided by the same carrier as the provider of vertical features." Sprint Brief at 20. Indeed, Verizon MA has explained that ESPs are entitled to resell vertical features to Verizon MA customers, and Verizon MA has made it clear that Sprint may do the same thing. Verizon MA has also made it clear, however, that Sprint is not entitled to the wholesale discount when it does so, just as ESPs are not entitled to the wholesale discount.

Finally, Sprint is just flat wrong when it claims that "Verizon seeks to force Sprint to totally 'win' the customer before the separate vertical service may be offered." Sprint Brief at 22. As Verizon MA has explained, Sprint may resell the Call Forward Busy Line/Don't Answer feature to Verizon MA's customers; Sprint is just not entitled to the wholesale discount when it does so. In this regard, Sprint is in exactly the same position as ESPs. Sprint's claim, therefore, that Verizon MA somehow discriminates in favor of ESPs (Sprint Brief at 22) is contrary to fact.(7)

The Department should therefore adopt the position of Verizon MA regarding this issue, and confirm that Verizon MA is not required to offer for resale at

wholesale rates stand-alone vertical features.

ARBITRATION ISSUE NO. 15

Compensation for Internet Traffic and GRIP

In its Main Brief, Sprint attempts to sidestep the central issue regarding reciprocal compensation - whether the agreement should include language which defines "Local Traffic" subject to reciprocal compensation in accordance with the Act and the Department's decisions - and instead seeks to characterize this as primarily a dispute regarding GRIP (Geographical Relevant Interconnection Points). Sprint's contention that Verizon MA seeks to "impose" its definition of "Local Traffic" on Sprint is meritless. Verizon MA proposal regarding Local Traffic is consistent with the Act, FCC rules, and Department's decisions, and properly excludes Internet-bound traffic from "Local Traffic" subject to reciprocal compensation.

Sprint unequivocally states in its brief that it is willing to "abide by the compensation scheme set by the Department for Internet traffic." Sprint Brief at 28. However, Sprint ignores that the Department has clearly and unambiguously ruled that Internet-bound traffic is not Local Traffic, but interstate in nature, and thus is not eligible for reciprocal compensation. As discussed in Verizon's Initial Brief, the Department has repeatedly confirmed the exclusion of ISP-bound traffic from the definition of "Local Traffic" subject to reciprocal compensation. See Verizon Initial Brief at 10. More recently, on October 5, 2000, the Department again confirmed its position on this issue in connection with its cross-motion for summary judgment filed in a case involving an appeal of its previous reciprocal compensation rulings. See WorldCom, Inc. and Global Naps, Inc. v. Verizon MA and the Massachusetts Department of Telecommunications and Energy, Case No. 00-CV-11513-RCL and 00-CV-10407-RCL (Consolidated), Memorandum in Support of Cross-Motion for Summary Judgement (October 5, 2000) (Attached Exhibit 1). The Department must reach a similar conclusion here and adopt the language proposed by Verizon MA that expressly excludes traffic to ISPs from the definition Local Traffic subject to reciprocal compensation.

Moreover, Sprint erroneously implies that the Department's ruling regarding the payment of reciprocal compensation only on traffic up to a 2:1 ratio was intended to provide compensation for Internet traffic. See Sprint Brief at 28. Quite the contrary is true. The 2:1 ratio set by the Department is clearly intended to provide compensation only for Local Traffic (i.e., non-ISP traffic) and merely establishes a rebuttable presumption that traffic that falls within the 2:1 ratio is Local Traffic. See Verizon Initial Brief at 10.

To suggest as Sprint does that the 2:1 ratio is a mechanism to provide reciprocal compensation for Internet-bound traffic is a gross distortion of the Department's rulings.

Sprint expresses indignation at the fact that Verizon MA has suggested that Sprint may adopt the Level 3 and PaeTec agreements, which do cover Internet-bound traffic, because those agreement contain a GRIP requirement. See Sprint Main Brief at 28-29. Sprint's claim completely misses the mark.

First, Sprint's complaint regarding the Level 3 and PaeTec agreements is completely irrelevant to the issue of the proper definition of Local Traffic subject to reciprocal compensation. As discussed above, there cannot be serious question regarding that definition because it has been squarely addressed by the FCC and the Department, and Verizon MA's proposal conforms precisely to the FCC and Department rulings.

Second, Verizon MA offered the Level 3 and PaeTec agreements as a good faith effort to address inter-carrier compensation for non-local Internet traffic, which the Department has ruled is not subject to reciprocal compensation. Integral to the compensation arrangements in those agreements are terms relating to GRIP. Verizon Initial Brief at 11 n.17. Although the Department has previously addressed the GRIP issue, it did not preclude carriers from voluntarily agreeing to provide GRIP as Level 3 and PaeTec have done. Indeed, the Department approved those agreements. Sprint, of course, is not obligated to accept the terms of those agreements, and Sprint apparently does not wish to take advantage of those agreements. However, Verizon MA's proposal to provide Sprint with the same terms as the Level 3 and PaeTec agreements is hardly unreasonable.

In short, there is no issue here. Verizon MA has proposed a definition of Local Traffic that properly excludes Internet-bound traffic. Verizon MA's position is consistent with clear Department rulings on the subject and with FCC decisions. On this arbitration issue, the Department need only confirm its prior decisions.

ARBITRATION ISSUE NO. 16

Duty to Provide Calling Party Number

Verizon MA has anticipated the arguments Sprint makes regarding this issue. In a nutshell, Sprint acknowledges that "it has a duty to pass [Calling Party Number] to Verizon to the maximum extent possible, as well as pay appropriate rates." Sprint Brief at 31. Sprint also acknowledges that CPN information is

provided automatically, and "the process is fully automated and relies minimally on manual intervention." Id. at 30. Sprint nevertheless speculates that it might not always pass CPN information, and if it does not, wants Verizon MA to review Sprint's billing records manually to obtain the information.

Sprint's proposal should be rejected. If Sprint is unable to pass CPN information, there is no basis to require Verizon MA to substitute a manual process for a fully automated one, and to rely on information that might not be nearly as accurate. Verizon MA must deal with many CLECs, and not discriminate among them. If Verizon MA were required to use a manual process in place of an automatic one for all CLECs, it could increase Verizon MA's expenses significantly, and unnecessarily. As Sprint notes, "the incidence of this type of failure between carriers is quite small" (id.), and Verizon MA has agreed that Sprint need not pass CPN more than 95 percent of the time. That should provide sufficient protection for any failures that Sprint might experience. The Department should therefore reject Sprint's position, just as the New York Commission rejected it.(8)

ARBITRATION ISSUE NO. 17

Local Calls Over Access Trunks

Sprint obfuscates this issue by continuing to claim that Verizon MA will not allow Sprint to send local calls over access trunks. Sprint Brief at 32. As Verizon MA has repeatedly explained, that is not the case.(9) The only question is whether reciprocal compensation applies when Sprint routes calls from one Verizon MA customer to another Verizon MA customer in the same local calling area. The answer to that question is no, because reciprocal compensation only applies to "Local Traffic" that originates on one party's network and terminates on the other party's network within a local calling area.(10)

Sprint's brief suggests that it may also be confused about this issue. It claims, for example, that Verizon MA's position "prevents Sprint from economically providing another DMS-250 local offerings to its customers." Sprint Brief at 33 (emphasis added). That is not true. Verizon MA's position can have no effect on the services Sprint provides to its customers. The only type of call at issue here is one in which, for some reason, a Verizon MA customer accesses Sprint's network to make a local call to another Verizon MA customer. Sprint postulates, for example, that a Verizon MA customer might dial "00" to reach a Sprint operator. Sprint Brief at 32. In that instance, reciprocal compensation would not apply because the call neither originated nor terminated on Sprint's network. If, however, Sprint sends Local Traffic from a Sprint customer to a Verizon MA customer, reciprocal compensation would

apply. If that is Sprint's concern, therefore, there is no issue in dispute.

ARBITRATION ISSUE NO. 18

Other Unbundled Network Elements

Sprint asserts in its Main Brief that Verizon has "failed to acknowledge" the FCC's UNE Remand and Line Sharing Orders because it has not agreed to include language proposed by Sprint. Sprint Brief at 33-34. Based on Sprint's reasoning, if there are provisions of any applicable statute that are covered in the agreement, those provisions must be recited in the agreement. This is absurd since it would clearly make for an unwieldy and voluminous agreement and is contrary to established practice. Verizon MA has a requirement to comply with applicable law, including FCC and Department rulings, concerning the network elements and other arrangements it must offer to CLEC. Verizon MA has agreed to provide Sprint with UNEs in accordance with applicable law. See Verizon's Proposed Agreement at Part II, Section 1 (attached to Verizon MA's Response to Petition). That proposal more than protects Sprint's interests without forcing Verizon MA to adopt language that misrepresents its obligations under law. The language proposed by Sprint is simply unnecessary.

Furthermore, as discussed in its response to Sprint's Petition for Arbitration, the terms, conditions and limitations under which Verizon MA must provide UNEs have been extensively addressed by the FCC and the Department. For instance, the Department has addressed in the Consolidated Arbitrations the terms under which Verizon MA must provide access to dark fiber and House and Riser cable. Sprint was a party to that proceeding and should be bound by the Department's rulings in that case. There is no reason for the Department to relitigate those issues in this arbitration. Likewise, the Department has also addressed other elements or arrangements noted in the Sprint Petition, such as subloops and line conditioning. In its Phase III Order of September 29, 2000 in D.T.E. 98-57, the Department resolved the terms for line sharing. It also approved the terms for subloops on an interim basis in D.T.E. 98-57 Phase I and is continuing to investigate this arrangement. Hearing Officer Memorandum Regarding Procedural Matters dated September 14, 2000. Sprint has participated in each phase of D.T.E 98-57 and should be bound by the Department's rulings in that docket. Sprint should not be permitted to relitigate these issues in this arbitration or to include provisions in the agreement that define terms and issues that have been ruled on or are currently being considered by the Department. The Department should reject Sprint's proposed language.(11)

CONCLUSION

For the reasons set forth above, the Department should adopt the positions of Verizon MA regarding the unresolved issues in this Arbitration proceeding and reject those advanced by Sprint.

Respectfully submitted,

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d/b/a VERIZON MASSACHUSETTS

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1.

1 As Verizon MA explained in its Initial Brief, in order to deliver traffic to Sprint, Verizon MA must either (1) purchase transport facilities from Sprint, or (2) build its own facilities, which in turn requires Verizon MA to obtain collocation from Sprint so that Verizon MA can terminate the facilities its builds. In either event, Verizon MA is a captive purchaser, and cannot obtain the services that it requires elsewhere. Verizon Initial Brief at 2-3.

2.

2 Sprint argues in its Petition that its rates should be based on its "business marketing requirements." Petition at 18.

3.

3 Sprint is also wrong in asserting that Verizon MA believes that "new tariffed rates should not supercede the rates set forth in the agreement." Sprint Brief at 12. Verizon MA recognizes that, under the agreement, Sprint could increase its rates by tariffing them. Verizon MA's objection is that some standard, other than Sprint's business needs, should apply to that process to judge the reasonableness of Sprint's rates. Moreover, Sprint is wrong in claiming that it "is merely seeking to enjoy the same rights as Verizon." Sprint Brief at 12. The agreement provides that either party's rates can be changed through Department-approved tariff changes, but Sprint denies that it should be required to justify its rates based on its costs, as Verizon MA must.

4.

4 Sprint does not dispute that Sprint's DS-1 rate is $275.00, as compared to Verizon MA's comparable rate of only $37.84. Sprint's only rejoinder is to note that it is likely that its DS-1 rate will also never apply because "Sprint does not interconnect with carriers below the DS3 level." Sprint Brief at 10.

5.

5 This situation describes reselling Call Forward Busy Line/Don't Answer "on a stand-alone basis." Verizon MA does not provide Call Forward Busy Line/Don't Answer to its customers unless they also purchase the basic dial tone line. In other words, Verizon MA does not offer the service on a stand-alone basis at retail.

6.

6 It is telling that although Sprint puts quotation marks around this language, it does not cite to any document.

7. 7 Sprint's arguments about the ordering process are confusing. In its brief, Sprint seems to object to using the same Verizon MA ordering process that ESPs use. Sprint Brief at 23. In its testimony, however, Sprint stated that it "merely asks Verizon to make available to Sprint an ordering system that is identical to that which it offers its own affiliates as well as to non-affiliated ESPs." Sprint Exh. 2 at 9. Verizon MA will allow Sprint to use the same ordering system that ESPs use. Sprint has also agreed "to adopt Verizon's current ordering processes as an interim step" (id. at 10), so there should be no issue here. Moreover, Sprint has acknowledged that the industry has not yet defined "a comprehensive ordering system for stand alone vertical features." Id. There is, therefore, no basis for Sprint's suggestion that Verizon MA be required to provide something that does not yet exist.

8.

8 Petition of Sprint Communications Company, L.P., Pursuant to Section 252(b) of the Telecommunications Act of 1996, for Arbitration to Establish an Interconnection Agreement with Bell Atlantic - New York, Case 99-C-1389, Order Resolving Arbitration Issues at 15 (Jan.12, 2000).

9.

9 See, e.g., Verizon MA's response to Sprint data request 3-5: "Verizon MA does not currently combine multi-jurisdictional traffic for itself. However, for traffic combined by CLECs (and terminated to Verizon MA) CLECs may combine interLATA toll traffic, intraLATA toll traffic, and local traffic on a single trunk group."

10.

10 See Interconnection Agreement at Attachment 1: Definitions section 1.0 (p. 159). "'Local Traffic' means traffic that is originated by a Customer of one Party on that Party's network and terminates to a Customer of the other Party on that Party's network within a given local calling area or expanded area service ('EAS') area, as EAS is defined in BA's effective Customer Tariffs." (Attached to Verizon MA's Response to Petition). See also the Agreement attached to Sprint's Petition at Attachment 1: Definitions, at p. 71, "Reciprocal Compensation means the arrangement for recovering costs incurred for the transport and termination of Local Traffic originating on one Party's network and terminating on the other Party's network."

11.

11 Even if Sprint's proposed language were reasonable, its proposal to require Verizon MA to recover its cost of line conditioning from Sprint in accordance with the TELRIC principles promulgated by the New Jersey Board of Public Utilities and to pursue arbitrations before that entity in the event of disputes regarding "technical feasibility" makes no sense. See Sprint Main Brief at 34, 36.